HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.929 OF 2005.

Unique Estates Development Co.Ltd. ...Petitioner

V/s.

State of Maharashtra & Ors. ...Respondents

Shri Raja Thakore, with S.Kalyani, for petitioner

Shri A.S.Gadkari, APP for respondent-State.

CORAM: A.M.KHANWILKAR,J
DATE : MAY 4, 2005

P.C. :-

1. Heard counsel for the parties.

2. Rule, made returnable forthwith, by consent.

3. As short question is involved, petition is taken up for final disposal forthwith, by consent.

4. This petition takes exception to the order passed by the Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai, dated 21st February, 2005, rejecting the petitioner’s prayer for return of property. The fact that the petitioner is the owner of the property is not in dispute. Besides, even the

local police has submitted report before the trial court that they have no objection for return of property as the vehicle was being damaged because of children playing cricket from the adjoining chawl.

5. Taking overall view of the matter, in my opinion, the order passed by the court below cannot be sustained. Instead, the petition filed by the petitioner ought to be allowed, on condition that the petitioner shall offer bond in the sum of Rs.3,50,000/- (Rupees Three Lakhs fifty thousand only) and also file undertaking before the trial court that the vehicle will be kept in good condition and produced in court, as and when required.

6. The above formalities be completed within two weeks from today. Vehicle be released only on compliance of above conditions.

7. Petition disposed of in the above terms.